

**IN THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE:

Stephen K. Merriman  
  
Debtor

Case # 10-63746  
Chapter 13  
Judge Caldwell

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Stephen K. Merriman  
21878 Main Street  
Raymond, OH 43067

Plaintiff,

v.

Adv. Pro. No.

Internal Revenue Service  
P O Box 21126  
Philadelphia, PA 19114

And

State of Ohio, Department of Taxation  
Bankruptcy Division  
P O Box 530  
Columbus, Ohio 43216

Defendants.

**COMPLAINT**

1. Plaintiff states that Stephen K. Merriman filed for relief pursuant to Chapter 13 of the United States Bankruptcy Code on November 22, 2011.

2. Plaintiff states that this is a core proceeding under 28 U.S.C. § 157(b)(2)(K).  
Venue is proper under 28 U.S.C. § 1409(a).

3. Plaintiff states that Stephen K. Merriman is the owner of residential real estate located at 21878 Main Street, Raymond, Ohio 43067, (see attached Exhibit A), which

real estate has a fair market appraised value of \$270,000.00 (see attached Exhibit B).

4. Plaintiff states that the residential real estate of Stephen K. Merriman is subject to real estate taxes due and owing to the Union County Treasurer in the approximate amount of \$18,725.60 (see attached Exhibit C) along with a first mortgage lien to Farm Credit Services in the approximate amount of \$190,617.04 (See attached Exhibit D).

5. Plaintiff states that the residential real estate of Stephen K. Merriman is subject to a second mortgage lien in favor of Fifth Third Bank with a balance of approximately \$102,888.17. (See attached Exhibit E).

6. Plaintiff states that the Internal Revenue Service is secured by a lien filed October 5, 2010 and recorded at O.R. Volume 866, Page 899 of the Union County Recorder's Official Records (see attached Exhibit F);

7. Plaintiff states that the State of Ohio Department of Taxation is secured by a lien filed September 3, 2010 assigned Case # 10-CJ-0595 and filed in the Union County Common Pleas Court Clerk of Court's Office (See attached Exhibit G);

8. Plaintiff states that the liens of the State of Ohio Department of Taxation and the Internal Revenue Service are junior to the superior liens of the Union County Treasurer, Farm Credit Services and Fifth Third Bank;

9. Plaintiff states that there exists insufficient equity in the residential real estate of Stephen K. Merriman to deem as secured the liens of the Internal Revenue Service and the State of Ohio Department of Taxation as it relates to the real estate located at 21878 Main Street, Raymond, Ohio 43067;

10. Plaintiff states that pursuant to the pertinent provisions of 11 U.S.C. § 506(a) and 506(d) as made applicable in this case by 11 U.S.C. § 1325 (a) (5), the Internal Revenue Service and the State of Ohio Department of Taxation are not the holders of a secured claim as that term

is defined in the United States Bankruptcy Code.

WHEREFORE, Plaintiff demands that:

1. the lien of the State of Ohio Department of Taxation which lien is recorded at Case # 10-CJ-0595 of the Union County Common Pleas Court, Clerk of Court's Office be released and forever discharged;
2. the lien of the Internal Revenue Service which lien is recorded at O.R. Volume 886, Page 899 of the Union County Recorder's Official Records be released and forever discharged;
3. for such further relief as the Court finds just and proper in the premises to grant.

/s/ John F. Cannizzaro  
Attorney for Stephen K. Merriman  
and the Chapter 13 Estate of Stephen K.  
Merriman  
302 S. Main St.  
Marysville, Oh 43040  
937-644-9125 (telephone #)  
937-644-0754 (fax #)  
[jsheets@cfbjlaw.com](mailto:jsheets@cfbjlaw.com)